IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 21725 of 2005
With
SPECIAL CIVIL APPLICATION No. 21754 of 2005
To
SPECIAL CIVIL APPLICATION No. 21756 of 2005

For Approval and Signature:

HONOURABLE MR.JUSTICE M.R. SHAH

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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RAVJIBHAIJAMABHAITHAKOR & 3 - Petitioner(s)

Versus

STATE OF GUJARAT & 3 - Respondent(s)

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Appearance :
MR RM CHHAYA for Petitioner(s) : 1 - 4.
MR DIPEN DESAI ASST GOVERNMENT PLEADER for Respondent(s) : 1,
None for Respondent(s) : 2 - 4, 4.2.1, 4.2.2,4.2.3
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CORAM : HONOURABLE MR.JUSTICE M.R. SHAH

Date : 26/10/2005

COMMON **ORAL JUDGMENT**

1. Rule. Shri Dipen Desai, learned AGP waives service of rule on behalf of the respondents Nos.1 to

3. With the consent of the learned advocates for the parties, the group of matters are heard finally today.

2. In this group of petitions, the respective petitioners have challenged the legality and validity of the judgment and order passed by the Principal Secretary, Revenue Department (Appeals), State of Gujarat dated 17.5.2003 passed in Revision Application No.1 of 1996 in dismissing the same and confirming the order passed by the Collector, Kheda dated 22.8.1995 passed in RTS/RA/13 of 1995. The dispute is with regard to the revenue entry No.28648 with respect to the land bearing Survey No.796 and other parcels of land situated at Anand. The aforesaid lands in question were in the name of Jamabhai Jesangbhai as the co-owners and on his death the names of some of the heirs had mutated in the revenue record vide aforesaid Entry No.28648. The said entry was objected to by the private respondents herein and it was treated as the disputed entry and the proceedings under the Disputed Case No.11 of 1993

was registered with the respondent No.3 and the said entry came to be accepted and / or certified vide order dated 31.12.1993. Being aggrieved and dissatisfied with the same, the private respondents preferred RTS Appeal No. 7 of 1994 before the Deputy Collector which came to be dismissed vide order dated 8.2.1995. Being aggrieved and dissatisfied with the order passed by the Deputy Collector dated 8.2.1995 passed in RTS Appeal No.7 of 1994, the private respondents preferred Revision Application RTS No.13 of 1995 and the Collector, Kheda by its order dated 22.8.1995 allowed the said revision application quashing and setting aside the order passed by the Mamlatdar, Anand dated 31.12.1993 passed in Revision Application No.11/1993 and the order passed by the Deputy Collector, Anand dated 8.2.95 passed in RTS Appeal No.7 of 1994 and the revenue entry No.28648 and in view of the fact that civil suit is already pending between the parties with regard to the lands in question being Civil Suit No.596 of 1989 in the court of learned Civil Judge (J.D.), Anand, the Collector, Kheda passed the order that necessary

entry can be mutated in the revenue record on the basis of the judgment and decree that may be passed by the learned civil Court. Being aggrieved and dissatisfied with the order passed by the Collector, Kheda dated 22-8-1995 passed in RTS Appeal No.13 of 1995, the petitioners preferred the revision application before the Principal Secretary, Revenue Department (Appeals), State of Gujarat being Revision Application No.1 of 1996 and the Principal Secretary, Revenue Department (Appeals), State of Gujarat by its judgment and order dated 17.5.2003 dismissed the said revision application confirming the order passed by the collector, Kheda. Being aggrieved and dissatisfied with the judgment and order passed by the Principal Secretary, Revenue Department (Appeals), State of Gujarat dated 17.5.2003 passed in Revision Application No.1 of 1996, the petitioners have preferred the present special civil applications under Articles 226 and 227 of the Constitution of India.

3. At the outset, it is required to be noted that the petitioners have challenged the judgment and

order passed by the Secretary (Appeals), Revenue Department, State of Gujarat dated 17.5.2003 after period of more than two years and as such, there is no explanation whatsoever for such delay. Apart from that, as stated above, the dispute is with regard to the revenue entry No.28648 and as held by the Hon'ble Supreme Court and this Court in catena of decisions, mere entry in the revenue record does not confer any right, title or interest in favour of the party in whose favour the entry stands and if there is any dispute with regard to title, the parties are required to be relegated to approach the Civil Court for establishing and crystallizing their rights. In the present case, as stated above, Civil Suit No.596 of 1989 is already pending in the Court of learned Civil Judge (JD), Anand with respect to the lands in question and therefore, the Collector, Kheda was justified in passing the order that necessary entry can be made on the basis of the judgment and decree that may be passed by the competent Civil Court, Anand passed in Regular Civil Suit No.596 of 1989 and the same has been rightly confirmed by the Principal Secretary (Appeals) also. In view of the above, and

more particularly, in view of the fact that the entry in the revenue record is only for fiscal purpose for the purpose of recovering the revenue from the person who is in possession of the land in question and that does not confer any right, title or interest and nobody can claim title only on the basis of his name in the revenue entry and necessary entry can be made in the revenue record on the basis of the judgment and decree that may be passed by the competent civil court and with this observations and direction, the present special civil applications are disposed of.

4. The revenue authorities are directed to make necessary entry in the revenue record on the basis of the judgment and decree that may be passed by the Civil Court i.e. Learned Civil Judge (JD), Anand passed in Regular Civil Suit No.596 of 1989. Subject to aforesaid observations and direction, all four petitions of the group are disposed of accordingly.

5. Rule is made absolute to the aforesaid extent , however, there will be no order as to costs.

D.S. Is permitted.

[M.R.Shah, J.]

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